

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

EDWARD JOSEPH NESGODA

Plaintiff :
v. : 3:18-CV-158
: (JUDGE MARIANI)
LEWISTOWN VALLEY :
ENTERPRISES, et al. :
Defendants :

ORDER

AND NOW, THIS 3rd DAY OF DECEMBER, 2018, upon review of

Magistrate Judge Mehalchick's Report and Recommendation ("R&R") (Doc. 32) for clear error or manifest injustice, IT IS HEREBY ORDERED THAT:

1. The R&R (Doc. 32) is **ADOPTED** for the reasons set forth therein.
2. Defendant Lewistown Valley Enterprises' Motion to Dismiss Plaintiff's Complaint (Doc. 11) is **GRANTED**. Plaintiff's Complaint (Doc. 1-2) is **DISMISSED WITHOUT PREJUDICE** as to Defendant Lewistown Valley Enterprises.
3. Defendants Doug Nystrand and Derrick Green's Motion to Dismiss Plaintiff's Complaint (Doc. 22) is **GRANTED**. Because individual employees cannot be held liable under Title VII, see *Sheridan v. El DuPont de Nemours & Co.*, 100 F.3d 1061, 1078 (3d Cir. 1996) (en banc), Plaintiff's Title VII claim against Defendants Doug Nystrand and Derrick Green is **DISMISSED WITH PREJUDICE**.

4. Plaintiff may file an amended complaint within **21 days** of the date of this Order.

Plaintiff's Amended Complaint shall comply with Magistrate Judge Mehalchick's direction with respect to the pleading requirements which Plaintiff must adhere to (Doc. 32, at 10), and shall include a statement with respect to whether Plaintiff has exhausted his administrative remedies as necessary to pursue a Title VII claim, and if so, the manner by which he did so. Failure to file an Amended Complaint may result in dismissal of this action with prejudice.

5. The above-captioned action is **REMANDED** to Magistrate Judge Mehalchick for proceedings consistent with this Order.



Robert D. Mariani
United States District Judge